

HAWAII ADMINISTRATIVE RULES

TITLE 2

OFFICE OF THE LIEUTENANT GOVERNOR

SUBTITLE 4 ELECTIONS

CHAPTER 53

ABSENTEE VOTING PROCEDURES

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Historical note: Chapter 2-53 is based substantially upon Chapter 2-36 [Eff 9/13/82; am 7/30/84; am 9/12/88; R 9/16/96]

§2-53-1 Definitions. Whenever used in this chapter, the words and phrases, unless the same are inconsistent with the context, shall be construed as follows:

"Absent uniformed services citizen" means: (1) A member of a uniformed service on active duty who is absent from the place of residence where the member is otherwise qualified to vote; (2) A member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and (3) A spouse or dependent of a member referred to in definition (1) or (2) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

"Affirmation statement" means a statement on the mail absentee return envelope which the voter subscribes to affirming that the voter requested an absentee ballot, is a resident of the district and precinct in which the voter is registered, and is entitled to vote an absentee ballot.

"Ballot/Seal control form" means a consolidated multicopy form used for the control of ballots from the packing phase through the distribution and collection phase, and provides a record of seals used to secure a ballot transport container, a precinct can, or a ballot box.

"Daily reconciliation of absentee ballots issued form" means the form used to provide a daily accounting of absentee ballots issued from the inventory of ballots assigned to the clerk of each county.

"Fax ballot" means an absentee mail ballot processed by facsimile transmission.

"Federal election" means any presidential, U.S. senatorial, or congressional election.

"Federal write-in ballot" means a blank absentee ballot which the federal government provides to an overseas voter.

"Mail absentee return envelope" means the envelope used by an absentee voter to return the secret ballot envelope to the clerk.

"Overseas citizen" means: (1) An absent uniformed services citizen who, by reason of active duty or service is absent from the United States on the date of the election involved; (2) A person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or (3) A person who resides outside the United States and (but for such residency) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

"Secret ballot envelope" means the envelope used by a voter to enclose the voted absentee ballot when voting by a mail absentee ballot or at the precincts.

"Voter registration form" means the affidavit on application for voter registration or other form prescribed by the chief election officer for voter registration or reregistration purposes. [Eff and comp 9/16/96; am and comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §11-1)

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§2-53-2 General provisions. (a) Whenever a duty is to be performed by the clerk, the clerk may delegate it to a designated representative or the election officials of the absentee polling place.

(b) The absentee ballot shall be marked in accordance with the provisions of sections 2-51-80 or 2-51-83, or procedures established by the chief election officer, as appropriate.

(c) The security of all ballots shall be maintained by the clerk and the election officials of the absentee polling place.

(d) Corrections to the pollbook regarding the absentee voter shall be made only on the order of the clerk or the board of registration. These include instances where:

- (1) The pollbook has been incorrectly annotated to show that the voter has either requested or voted an absentee ballot; or
- (2) The voter desires to vote at the regular or absentee polling place and the clerk's records show that an absentee ballot has already been mailed to that voter and has not been received by the clerk. The voter shall be allowed to vote and all records shall be annotated to insure that no further ballots shall be accepted for that voter.

(e) Secret ballot envelopes which, when opened, do not contain ballots, shall be considered invalid for auditing purposes.

(f) Mail absentee return envelopes may be accepted at the regular polling places in accordance with HRS §15-9.

(g) The clerk may accept oral requests for an absentee ballot in an emergency situation to expedite the transmission of ballots, but shall require the absentee voter to complete and return a signed application before accepting the transmitted absentee ballot in accordance with HRS §15-5(b).

(h) The clerk may honor requests received after the deadline specified in HRS §15-4, if the clerk believes there is sufficient time to return the ballots by the close of the polls. [Eff and comp 9/16/96; am 9/18/98; am and comp SEP 18 2000] (Auth: HRS §11-4)

(Imp: HRS §§15-4, 15-5, 15-9)

§2-53-3 Who may vote by absentee ballot. (a) In accordance with HRS §15-2, the clerk may issue an absentee ballot to any registered voter who requests to vote absentee.

(b) Individuals who qualify under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §1973ff, as amended, shall be issued absentee ballots in accordance with provisions of section 2-53-20.

(c) Any voter who is unable to vote at the polls on election day may, by written request, authorize the clerk to deliver the ballot through an intermediary other than the voter's employer or agent of that employer or officer or agent of the voter's union. This request shall contain substantially the same information required of any voter who requests an absentee ballot. [Eff and comp 9/16/96; am and comp SEP 18 2000] (Auth: HRS §§11-4, 15-2, 42 U.S.C. §1973ff) (Imp: HRS §§11-16, 15-2, 15-5, 42 U.S.C. §1973ff)

§2-53-4 Application for absentee voter ballot; content. (a) The application for absentee voter ballot shall be in a form prescribed and approved by the chief election officer or clerk, attached hereto as Appendix "K" dated July 1, 2000.

(b) The application for absentee voter ballot shall contain substantially the following information:

- (1) A place for the voter to identify the year of the election and the election or elections for which ballots are being requested;
- (2) A place for the applicant's name, social security number, date of birth, place of birth, residence address or a description of the location of the residence, mailing address, home phone number, business phone number, and gender;
- (3) A place for the address to which the voter

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- wishes the absentee ballot to be forwarded for the primary election and the general election;
- (4) A self-subscribing oath that the applicant is swearing or affirming to the following:
 - (A) That the applicant is the person named above;
 - (B) That the applicant is requesting an absentee ballot for the applicant and no one else; and
 - (C) That the information given in the affidavit is true and correct;
 - (5) A space for the signature of a witness when the applicant is unable to write for reason of illiteracy, blindness, or other physical disability; and
 - (6) A place for the clerk to add the following information:
 - (A) Application number;
 - (B) District and precinct;
 - (C) Ballot stub number;
 - (D) Date ballot mailed and person who mailed ballot;
 - (E) Name of clerk; and
 - (F) Date ballot received and person who received ballot. [Eff and comp 9/16/96; am 9/18/98; am and comp SEP 18 2000]
- (Auth: HRS §§11-4, 15-2) (Imp: HRS §15-4)

§2-53-4.1 Application for absentee voter ballot; reproduction. (a) The application for absentee voter ballot and instructions may be reproduced. If reproduced, the application for absentee voter ballot must be:

- (1) Reproduced in its entirety;
- (2) Shall not be included in, attached to, or affixed to, any campaign or informational literature unrelated to voter registration;
- (3) Shall be a 1:1 reproduction of the original application for absentee voter ballot;

- (4) Shall not contain a glossy finish; and
- (5) Shall not be reproduced on newsprint quality paper.

(b) A facsimile of the application for absentee voter ballot may be submitted to the clerk, provided that the information supplied by the applicant and the applicant's signature on the facsimile application for absentee voter ballot shall be original. [Eff and comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §15-4)

§2-53-5 Absentee polling place. (a) The clerk shall designate locations at which voters may cast an absentee ballot, in person, prior to election day. At each absentee polling place, the clerk shall assign personnel and issue operating instructions which provide for the security of all ballots and secrecy of the voted and discarded ballots.

(b) The clerk shall post in a conspicuous place, prior to the opening of the absentee polling place, a map designating an area around the absentee polling place for purposes of HRS §19-6. Any person who remains or loiters within the area, as defined in HRS §19-6, around the absentee polling place for the purpose of campaigning shall be guilty of a misdemeanor.

(c) The clerk may designate the area of the absentee polling place to encompass an area up to the area prescribed in HRS §11-132.

(d) Admission within the absentee polling place shall be limited to the following:

- (1) Election officials;
- (2) Pollwatchers, if any, pursuant to HRS §11-77;
- (3) Candidates;
- (4) Any voters actually engaged in voting, going to vote or returning from voting;
- (5) Any person authorized to assist a voter; and
- (6) Any person or nonvoter group authorized by the chief election officer or clerk to observe the election for educational purposes provided that they conduct themselves so that the conduct of the person or group does not interfere with the election process. [Eff

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and comp 9/16/96; am and comp SEP 18 2000]
(Auth: HRS §§11-4, 15-7) (Imp: HRS §§11-152,
15-7, 19-6)

§2-53-6 Administration and operation of the absentee polling place. (a) Unless otherwise provided, the clerk shall operate the absentee polling place in substantially the same manner provided by law for the regular polling place.

(b) The clerk shall determine the duration and hours of operation for the absentee polling place. The absentee polling place shall close not later than 4:30 p.m. on the day prior to election day. Adequate notice of the hours of operation shall be provided to the voters.

(c) The clerk shall prepare a daily accounting of all ballots (voted, mailed, spoiled, or unissued) in accordance with the procedures set forth in the provisions of section 2-53-6(a). [Eff and comp 9/16/96; comp SEP 18 2000] (Auth: HRS §11-4, 42 U.S.C. §1973aa-1a) (Imp: HRS §§11-136, 11-139, 15-7, 42 U.S.C. §1973aa-1a)

§2-53-7 Accountability and security of ballots and ballot boxes. (a) The clerk shall maintain a complete and current count of all absentee ballots in the clerk's possession.

(1) This accounting shall be recorded on forms prescribed by the chief election officer.

(2) All ballots shall be safeguarded to prevent any mishandling or misuse.

(b) The procedure for insuring the security of ballot boxes shall be as follows:

(1) Ballot boxes used to contain voted ballots shall be made of suitable materials to prevent breakage or tampering;

(2) A sufficient number of ballot boxes shall be available at each absentee polling place for the election. The boxes shall be marked as valid absentee ballots, invalid absentee

ballots, and discarded absentee ballots, whichever is appropriate for the election. In addition, each ballot container shall be labeled with:

- (A) The name and official title of the clerk;
and
 - (B) The words "This container holds absentee ballots and shall be opened only pursuant to law";
- (3) The clerk may designate additional ballot boxes to be used at each absentee polling place. The boxes shall be marked as provided in paragraph (2);
 - (4) All ballot boxes, immediately prior to being used at the absentee polling place, shall be opened and shown to be empty to the first voter who casts an absentee ballot in that ballot box. The voter shall witness the sealing of these ballot boxes with a nonreusable seal. The boxes shall remain sealed until opened by the designated officials;
 - (5) Ballot boxes used in the absentee polling place shall have their openings sealed with a lid lock during nonbusiness hours and these boxes shall be properly safeguarded. Ballot boxes transported between the absentee polling place and the counting center shall also be secured with a lid lock;
 - (6) A record shall be maintained to list the seals used to seal the ballot boxes and to provide an accurate chronological posting of the seals used during the closing and opening of the lid locks for each ballot box. A section for witnesses' signatures shall also be provided;
 - (7) The clerk or a designated representative shall make periodic checks of the seals on the ballot boxes to insure that no tampering has occurred with the seals on the boxes; and
 - (8) Whenever it is discovered or determined that tampering has occurred with a seal, or that a seal does not match the seal record, the

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chief election officer, clerk, or designated representative shall conduct an immediate investigation. The counting and disposition of the ballots in this box shall be suspended pending the results of the investigation. [Eff and comp 9/16/96; comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §§15-7, 15-8)

§2-53-8 Return and receipt of mail absentee return envelopes. (a) Mail absentee return envelopes received in the clerk's office during the absentee voting period and at the regular polling places on election day shall be processed in the manner provided by law.

(b) An absentee ballot received from a voter whose registration has been identified as questionable may be processed only if the voter has completed an ACRA form as provided in section 2-51-26.

(c) The clerk, precinct officials, absentee ballot team officials, and counting center officials shall observe the procedures set forth in this chapter with regard to signatures on the affirmation statement, tampering with the mail absentee return or secret ballot envelopes, and the processing of the mail absentee return envelopes at the regular polling places on election day. [Eff and comp 9/16/96; am and comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §§15-6, 15-9, 15-10, 15-11)

§2-53-9 Mail absentee return envelopes; signature validation. Signatures on the affirmation statement shall be validated.

(1) The mail absentee return envelope shall be valid if the voter's signature on the affirmation statement corresponds with the voter's signature on the absentee request or voter registration affidavit, whether it is in longhand, print, characters, or marked with a voter's mark.

(A) If the signatures correspond, the return

- envelope shall be deposited in the valid ballot box.
- (B) If the signatures do not correspond, the return envelope shall be:
 - (i) Noted as being "invalid";
 - (ii) A note of the invalid condition shall be recorded onto the envelope and the application for absentee voter ballot; and
 - (iii) The envelope shall be deposited in the invalid ballot box.
 - (2) If a voter makes the voter's mark in place of a signature on the affirmation statement, a witness to the making of the mark shall sign the witness' signature and write the witness' address on the affirmation statement. If a witness' signature and address do not appear on the affirmation statement, the return envelope shall be:
 - (A) Noted as being "invalid";
 - (B) A note of the invalid condition shall be recorded onto the envelope and the application for absentee voter ballot; and
 - (C) The envelope shall be deposited in the invalid ballot box.
 - (3) If the return envelope is returned damaged such that the voter's signature cannot be determined, the return envelope shall be:
 - (A) Noted as being "invalid";
 - (B) A note of the invalid condition shall be recorded onto the envelope and the application for absentee voter ballot; and
 - (C) The envelope shall be deposited in the invalid ballot box.
 - (4) If the return envelope is returned and the voter's signature does not appear on the appropriate line after the affirmation statement, the return envelope shall be:
 - (A) Noted as being "invalid";
 - (B) A note of the invalid condition shall be recorded onto the envelope and the

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- application for absentee voter ballot; and
- (C) The envelope shall be deposited in the invalid ballot box. [Eff and comp 9/16/96; am and comp SEP 18 2000] (Auth: HRS §§11-4, 15-6) (Imp: HRS §§15-6, 15-9, 15-10, 15-11)

§2-53-10 Mail absentee return envelopes; processing of damaged, duplicate, or unidentifiable by the clerk.
Damaged, duplicate, or unidentifiable mail absentee return envelopes shall be processed in accordance with the following:

- (1) If the return envelope has been torn, cut, resealed, or otherwise mutilated in such a manner as to appear to have been tampered with, the clerk or a designated representative shall write the word "questionable" on the face of the return envelope prior to depositing the envelope in the valid ballot box;
- (2) If more than one return envelope is received from a voter, only the valid return envelope shall be opened and counted;
- (3) If the return envelope contains the ballots of more than one absentee voter the envelope will be noted as being "invalid" and deposited in the invalid ballot box; and
- (4) If a return envelope is returned without an address label it shall be:
 - (A) Noted as being "invalid";
 - (B) A note of the invalid condition shall be recorded onto the envelope and the application for absentee voter ballot; and
 - (C) The envelope shall be deposited in the invalid ballot box. [Eff and comp 9/16/96; am and comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §§15-6, 15-9, 15-10, 15-11)

§2-53-11 Mail absentee return envelope; receipt at the precincts. On election day, an absentee voter may return the voter's mail absentee return envelope to any polling place within the voter's county or the clerk's designated representative.

(1) Procedures for the receipt of a voted mail absentee ballot at a polling place shall be as follows:

(A) The precinct chairperson or voter assistance officer shall telephone the control center and provide the voter's name, social security number, district and precinct numbers and the polling place from which the call is being made;

(B) Upon confirmation by the clerk that the voter is an absentee voter, the precinct official shall:

- (i) Ensure the voter's signature or mark appears on the affirmation statement of the mail absentee return envelope;
- (ii) Record the name of the voter and the time of receipt of the mail absentee return envelope in the record book;
- (iii) Deposit the mail absentee return envelope, with the ballots enclosed, into the ballot box if using the paper ballot system or punchcard ballot voting system; and
- (iv) Deposit the mail absentee return envelope, with the ballots enclosed, into the voted ballot mail absentee ballot return envelope if using the marksense ballot voting system. When the polls close, the voted ballot mail absentee ballot return envelope will be placed into the precinct can and delivered to the counting center;

(C) Precinct officials shall accept mail

- absentee return envelopes until the polls close on election day.
- (2) Procedures for the receipt of an unvoted mail absentee ballot at a polling place shall be as follows:
- (A) The precinct chairperson or voter assistance officer shall telephone the control center and provide the voter's name, social security number, district and precinct numbers and the polling place from which the call is being made; and
 - (B) Upon confirmation from the clerk that the voter is an absentee voter and in the correct polling place to vote, the precinct official shall:
 - (i) Collect the unvoted mail absentee ballots and return envelope and place them in the clerk's envelope;
 - (ii) Write the correction order number issued by the clerk in the voter's "remarks" column of the pollbook;
 - (iii) Line out the voter's "AB" designation in the pollbook;
 - (iv) Allow the voter to vote per standard procedure; and
 - (v) Record the incident in the record book.
- (3) Procedures at the clerk's office for the receipt of a voted mail absentee ballot by precinct officials shall be as follows:
- (A) The clerk's office shall record on the voter's application for absentee voter ballot the date and time and the fact that the mail absentee return envelope was returned to the regular polling place, and the polling place to which it was returned;
 - (B) The signature verification process, original or a copy of the voter's absentee ballot application or voter

registration form shall be prepared and taken to the counting center for the purpose of comparing the signature on the affirmation statement with the signature on the application or voter registration form; and

- (C) The clerk's office shall prepare the final absentee reconciliation of voted walk-in and mail absentee return envelopes returned to the regular polling place on election day. [Eff and comp 9/16/96; am and comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §§15-6, 15-9, 15-10, 15-11)

§2-53-12 Mail absentee return envelope; procedures after the polls close; paper ballots. In the case of a paper ballot voting system, the procedures after the polls close shall be as follows:

- (1) At the polling place, mail absentee return envelopes found in the ballot boxes shall be removed and turned over to the precinct chairperson. After tallying the precinct ballots, the tally sheets, any mail absentee return envelopes received, and other sensitive materials shall be sealed in the precinct can. The precinct chairperson and one other official not of the same political party shall deliver the sealed precinct can to the sending official by the method and schedule determined by the sending official; and
- (2) At the counting center, the counting center manager shall give the absentee ballot team any mail absentee return envelopes delivered to the counting center:
 - (A) Where possible, the absentee ballot team shall process the ballots of precincts that are not sending return envelopes before processing the ballots of precincts that are sending return

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- envelopes;
- (B) If a return envelope arrives before the absentee ballot team completes its processing of the corresponding precinct's ballots, the envelope shall be processed in accordance with the provisions of sections 2-53-15 and 2-53-16; and
 - (C) If a return envelope arrives after the absentee ballot team has completed its processing of the corresponding precinct's ballots, to protect the secrecy of that voter's ballot, it shall not be processed except to break a tie vote. It shall be disposed of as provided by law. [Eff and comp 9/16/96; am and comp SEP 18 2000]
(Auth: HRS §11-4) (Imp: HRS §§15-6, 15-9, 15-10, 15-11)

§2-53-13 Walk-in and mail absentee ballots; transfer to the counting center. When either the paper ballot system or electronic voting system is used for absentee voting, the clerk shall do all of the following:

- (1) After the close of the absentee polling place on the day prior to the processing of ballots, the clerk shall prepare a preliminary reconciliation of voted walk-in and mail absentee ballots form. The form shall summarize the following totals by districts:
 - (A) Walk-in absentee ballots or ballot sleeves, if used;
 - (B) Valid mail absentee return envelopes;
 - (C) Invalid mail absentee return envelopes; and
 - (D) Absentee turnout;
- (2) The preliminary reconciliation of voted walk-in and mail absentee ballots form and the completed seal certification form shall

- accompany the absentee ballot boxes scheduled for early collection;
- (3) The clerk shall transport voted absentee ballots to the counting center in sealed ballot boxes in the presence of at least two designated representatives of the chief election officer. When electronic voting system ballots are used, ballots transported to the counting center shall be sent in sealed ballot boxes. Transfer of voted absentee ballots between the chief election officer or designated representative and the respective clerk shall be accomplished using the seal certification process in section 2-51-72 with forms prescribed by the chief election officer; and
 - (4) In addition, the clerk shall do all of the following:
 - (A) Continue to allow absentee voting for voters authorized under HRS §§15-2 and 15-9, and section 2-53-3;
 - (B) Accept mail absentee return envelopes until the polls close according to procedures set forth in sections 2-53-11 and 2-53-12; and
 - (C) Prepare a final reconciliation of voted walk-in and mail absentee ballots form and the seal certification form for the absentee ballot boxes after the polls close. [Eff and comp 9/16/96; am 9/18/98; am and comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §§15-6, 15-8, 15-9, 15-10)

§2-53-14 Absentee ballots; receipt at the counting center. Upon arrival of the absentee ballot boxes at the counting center, the ballot boxes shall be verified by at least two official observers not of the same political party or organizational affiliation who shall check the seal number on the ballot box against the number recorded on the seal certification form as

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follows:

- (1) If the seal number does not match, the chief election officer, clerk, or designated representative shall conduct an immediate investigation. The processing of absentee ballots in the affected ballot box shall be suspended pending the outcome of the investigation;
- (2) If the seal numbers match, the absentee ballot team shall cut the seal and remove the walk-in absentee ballots or ballot sleeves, if used, and the mail absentee return envelopes; and
- (3) The mail absentee return envelopes and the voted walk-in ballots or ballot sleeves, if used, shall be processed separately, and may be further segregated according to district and precinct, if necessary. [Eff and comp 9/16/96; am 9/18/98; comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §§15-6, 15-8, 15-9, 15-10)

§2-53-15 Mail absentee return envelopes; processing at the counting center; electronic voting system. In the case of an electronic voting system ballot, the procedures at the counting center shall be as follows:

- (1) Mail absentee return envelopes found in the ballot boxes or the precinct can shall be turned over to the absentee ballot team chairperson;
- (2) Prior to opening the mail absentee return envelopes and counting the ballots, the return envelopes and the secret ballot envelopes shall be checked in accordance with the provisions of sections 2-53-8 and 2-53-9 and HRS §15-9(b); and
- (3) The voted mail absentee ballot counts shall be reconciled. [Eff and comp 9/16/96; am and comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §§15-6, 15-9, 15-10, 15-11)

§2-53-16 Absentee ballots; processing at the counting center. (a) Walk-in absentee voted ballots or ballot sleeves, if used, shall be processed in the following manner:

(1) Voted walk-in absentee ballots shall be placed in ballot card containers and forwarded to the absentee inspection team; and

(2) Where ballot sleeves are used:

(A) Voted walk-in absentee ballots shall be removed from ballot sleeves and shall be placed in ballot card containers;

(B) Where the voted ballot is not in a ballot sleeve, the voted ballot shall be placed directly from the ballot box into the ballot card container for further processing; and

(C) Ballot card containers shall be forwarded to the absentee ballot inspection team.

(b) Mail absentee return envelopes and the enclosed secret ballot envelopes shall be processed in the following order and manner:

(1) Absentee return envelopes with the word "questionable" stamped on them shall be separated from the rest of the return envelopes. The "questionable" absentee return envelopes shall be opened by the absentee ballot team chairperson and the clerk's designated representative and the contents shall be removed.

(A) If there is no secret ballot envelope:

(i) The contents shall be placed back into the "questionable" ballot envelope;

(ii) The envelope shall be marked "no secret ballot envelope";

(iii) Noted as being "invalid" ;

(iv) Placed in the invalid ballot box; and

(v) Disposed of in accordance with HRS §11-154.

(B) The "questionable" secret ballot

envelopes shall be checked by the absentee ballot team chairperson and the clerk's designated representative for possible tampering. If the secret ballot envelope has been torn, cut, resealed, or otherwise mutilated in such a manner as to appear to have been tampered:

- (i) The contents shall be placed back into the "questionable" absentee return envelope;
- (ii) Marked "possible tampering";
- (iii) The absentee return envelope shall be noted as being "invalid";
- (iv) Deposited in the invalid ballot box; and
- (v) Disposed of in accordance with HRS §11-154.

The preliminary or final reconciliation of voted walk-in and mail absentee ballots form, whichever is appropriate, shall be adjusted accordingly;

- (2) The valid return envelopes shall be opened and the secret ballot envelopes shall be removed.
 - (A) Voted ballots shall be removed from the secret ballot envelopes, placed in ballot card containers and forwarded to the absentee ballot inspection team.
 - (B) If the voted ballot is not in a secret ballot envelope and the return envelope is not marked "questionable," the voted ballot shall be placed directly from the return envelope into the ballot card container for further processing;
- (3) Invalid conditions are:
 - (A) More than one secret ballot envelope, indicating a ballot from more than one voter;
 - (B) Secret ballot envelopes containing ballots of more than one voter; and
 - (C) An absentee ballot is returned

- defective and cannot be duplicated; and
- (4) The secret ballot envelope or ballot that has an invalid condition shall be:
 - (A) Noted as being "invalid";
 - (B) The invalid condition noted on the secret ballot envelope; and
 - (C) The secret ballot envelope placed in the invalid ballot box.
 - (D) The preliminary reconciliation of voted mail absentee ballots form, shall be adjusted accordingly.
 - (c) Paper ballot voting system absentee ballots shall be counted according to sections 2-51-90 and 2-51-91.
 - (d) Punchcard ballot voting system prescored mail absentee ballots shall be inspected as follows:
 - (1) The election official shall hold the ballot and blow at the prescored voting position to inspect for an incompletely detached chad;
 - (2) The election official shall remove a chad if the chad is attached to the ballot by only one (1) tie; and
 - (3) The election official may also run the official's fingers on opposite sides of the ballot simultaneously, along the voting positions to locate an incompletely detached chad.
 - (e) Mail absentee return envelopes and voted walk-in ballots or ballot sleeves, may be processed for counting prior to election day if the chief election officer determines that the volume warrants early processing. The processing shall begin not earlier than the fifth day prior to an election and shall be performed pursuant to procedures established by the chief election officer. [Eff and comp 9/16/96; am 9/18/98; am and comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §§15-6, 15-8, 15-9, 15-10)

§2-53-17 Mail absentee ballots; replacement by facsimile transmission. (a) A voter who requested but has not received a mail absentee ballot within five

days of the election, may request and receive a replacement ballot by facsimile (fax) transmission from the clerk from whom the original mail absentee ballot was requested.

(b) Upon receipt of a phone or facsimile request for a replacement mail absentee ballot, the clerk or the clerk's designee, shall confirm that the voter previously requested a mail absentee ballot for that election and that a voted mail absentee ballot for that voter has not been received.

(1) If the voter did not previously request a mail absentee ballot for the election, then the clerk or clerk's designee shall notify the voter, by facsimile transmission or by phone, that the voter is not eligible to receive a mail absentee ballot by facsimile transmission.

(2) If the clerk's records indicate that a voted mail absentee ballot has already been received from that voter, then the clerk or clerk's designee shall notify the voter that a replacement ballot shall not be sent by facsimile transmission.

(3) If the clerk's records confirm that a voted mail absentee ballot has not been received by the clerk, a replacement ballot and waiver of secrecy and affirmation statement form and a copy of HRS §11-137, shall be sent to the voter by facsimile transmission within 24 hours of receiving the request or as soon thereafter as practicable.

(c) Before sending the replacement ballot with instructions by facsimile transmission, the clerk or clerk's designee shall:

- (1) Remove an appropriate replacement ballot from inventory;
- (2) Record the replacement ballot serial number on the voter's request form and other forms required for reconciliation purposes;
- (3) Make a copy of the replacement ballot by using a velox of the appropriate ballot;
- (4) Record the replacement ballot serial number on the copied replacement ballot; and

- (5) Send the copied replacement ballot and related documents to the voter by facsimile transmission.
- (d) The clerk or clerk's designee shall retain the replacement ballot and copied replacement ballot until the voter returns the waiver of secrecy and affirmation statement form and voted replacement ballot by facsimile transmission.
- (e) Upon receipt of a completed waiver of secrecy and affirmation statement form and the voted facsimile ballot, the clerk or clerk's designee shall process the voted ballot in accordance with procedures established in sections 2-53-9 and 2-53-10.
- (f) When a waiver of secrecy and affirmation statement form and voted facsimile ballot have been determined to be valid, the following procedures shall apply:
 - (1) The voted facsimile ballot and the replacement ballot shall be placed in the absentee return envelope and the envelope sealed;
 - (2) The clerk or the clerk's designee shall note in the affirmation block that a facsimile ballot is contained in the sealed absentee return envelope; and
 - (3) The sealed absentee return envelope shall be deposited in the absentee ballot box.
- (g) The clerk or clerk's designee shall transport the absentee ballot box to the counting center in accordance with procedures established in section 2-53-13(a)(3).
- (h) The counting center officials shall copy the votes on the facsimile ballot onto the replacement ballot in accordance with the procedures established by the chief election officer. [Eff and comp 9/16/96; comp SEP 18 2000] (Auth: HRS §§11-4, 15-2) (Imp: HRS §15-5)

§2-53-18 Federal write-in ballots, and ballots transmitted by facsimile; processing of. Federal write-in ballots or absentee ballots transmitted by

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facsimile shall be counted as follows:

- (1) After all regular absentee ballots are processed the absentee chairperson shall retrieve the federal write-in ballots and absentee ballots transmitted by facsimile from the counting center manager to be duplicated;
- (2) The absentee ballot team, in the presence of at least two official observers not of the same political party or organizational affiliation, shall prepare a new ballot to replace each federal write-in ballot and absentee ballot transmitted by facsimile. Voting devices and unvoted ballots to be used for duplication shall be authorized in the counting center for this purpose;
- (3) There shall be a reconciliation of the number of duplicate ballots used to replace the federal write-in ballots and absentee ballots transmitted by facsimile; and
- (4) When the replacement is complete, the federal write-in ballot or ballots transmitted by facsimile shall be invalid and shall be stored in accordance with section 2-51-96(f). [Eff and comp 9/16/96; am and comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §§15-6, 15-8, 15-9, 15-10)

§2-53-19 Absentee voting in remote areas. (a) The clerk may designate a representative or representatives to handle absentee voting in remote areas where there is no clerk's office or in areas where past experience has indicated that it would be a hardship on the voters to require them to appear at the clerk's office. The designated representative(s) shall follow all applicable provisions relating to the operation of an absentee polling place.

- (b) The exceptions to this procedure are:
 - (1) One representative may handle the procedure in an area;
 - (2) One ballot box may be used to contain all

- the ballots for an area;
- (3) The names of persons voting the absentee ballot shall be given to the clerk on a daily basis;
 - (4) Voting shall terminate at a time designated by the clerk provided it is not later than 4:30 p.m. on the day prior to election day;
 - (5) The sealed ballot box containing voted ballots and the unvoted ballots, records, supplies, and other polling place materials shall be returned to the clerk immediately after the close of the absentee voting period; and
 - (6) The ballot box shall be unsealed and opened and the valid ballots contained therein shall then be counted at the time and place provided by law and section 2-53-15 for the counting of absentee ballots. [Eff and comp 9/16/96; am and comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §§15-4, 15-7, 15-8)

§2-53-20 Voting, registration, and counting of absentee ballots of overseas citizens. (a) The general purpose of 42 U.S.C. §1973ff as amended, is to:

- (1) Permit absent uniformed services citizens and overseas citizens to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for federal office; and
 - (2) Permit overseas citizens to use a "federal write-in" absentee ballot in general elections for federal office.
- (b) The term "federal election" means any presidential, U.S. senatorial, or congressional election.
- (c) Citizens shall be regarded as residing overseas if they reside anywhere except the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

(d) The clerk may maintain a separate register for overseas citizens who apply to vote under the provisions of 42 U.S.C. §1973ff, as amended.

(e) An overseas citizen may use the federal postcard (FPCA-76) form to register to vote and to request an absentee ballot. A federal postcard form used by an overseas citizen to request an absentee ballot which is received in the year of the election will be held and processed sixty days prior to the election.

(f) A duly registered overseas citizen voter who wishes to vote the federal election ballot in person at the clerk's office may do so upon presentation of proper identification.

(g) An overseas citizen who makes timely application for, and does not receive the State's absentee ballot, may use the federal write-in absentee ballot in general elections. In completing the ballot the overseas voter may write-in the name of a qualified candidate or political party and any abbreviation, misspelling, or other minor variation shall be disregarded if the intent of the voter can be ascertained.

(h) The federal election absentee ballot may be a paper ballot or electronic ballot card. The federal election absentee ballot shall be received by the clerk not later than closing of the polls on election day. A federal write-in absentee ballot will be processed according to established procedures for regular absentee ballots only if:

- (1) A request for the state absentee ballot was received at least thirty days prior to the election;
- (2) A state absentee ballot has not been received;
- (3) The federal write-in ballot has been mailed from outside the United States; and
- (4) There is a valid affirmation signature and no evidence of tampering. [Eff and comp 9/16/96; comp SEP 18 2000] (Auth: HRS §11-4, 42 U.S.C §1973ff) (Imp: HRS §11-6, 42 U.S.C. §1973ff)

§2-53-21 Absentee ballot for presidential election.

(a) The clerk shall require an applicant requesting a presidential absentee ballot to furnish information which verifies the citizen's voting status. The application shall include all of the following:

- (1) Citizenship;
- (2) Residence address in Hawaii at which the person was previously registered to vote;
- (3) A statement that the voter does not qualify in present state of residence to vote the presidential ballot;
- (4) The date residence was established in the present state of residence;
- (5) The name, address, and signature of applicant;
- (6) An acknowledgment by the applicant;
- (7) A verification by the voter registrar or clerk of the jurisdiction in which the applicant presently resides that the applicant is ineligible to vote in said jurisdiction; and
- (8) Other information as determined by the clerk.

(b) The presidential absentee ballot may be a paper ballot or electronic ballot card.

(c) Counting and disposition of presidential absentee ballots shall be done in accordance with established procedures. [Eff and comp 9/16/96; am and comp SEP 18 2000] (Auth: HRS §11-4) (Imp: HRS §15-3)